APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,492	12/15/2003	Dominic Fischer	BOC9-2003-0067 (438)	3797

40987   7590   09/17/2008
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ART UNIT	PAPER NUMBER
2178	

MAIL DATE	DELIVERY MODE
09/17/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
	10/736,492	FISCHER ET AL.
Office Action Summary	Examiner	Art Unit	
	Samir Termanini	2178	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>21 May 2008</u>.

2a) ☒ This action is FINAL.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☐ Claim(s) <u>1-30</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-30</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on <u>15 December 2003</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

    1. ☐ Certified copies of the priority documents have been received.

    2. ☐ Certified copies of the priority documents have been received in Application No. _____.

    3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
        application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

BACKGROUND

1.   This Final Office Action is responsive to the following communications:
Amendment filed on 5/21/2008.

2.   Claims 1-8, 10-17, 19-26, and 28-30 are pending. Claims 1, 10, and 19 are
independent in form.

3.   Applicant amended Claims 1, 10, and 19 in response to the Rejections
cited by the Examiner in the previous Office Action (dated 2/21/2008) under 35 U.S.C.
§103(a)

4.   Arguments concerning the Examiner's rejections of claims 1–30, made
under 35 U.S.C. §103(a) in the previous Office Action (dated 2/21/2008) have been fully
considered but are not persuasive for the reasons detailed hereunder.

CLAIM REJECTIONS-35 U.S.C. §103

5.   The following is a quotation of 35 U.S.C. §103(a) which forms the basis for
all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically
> disclosed or described as set forth in section 102 of this title, if the
> differences between the subject matter sought to be patented and the
> prior art are such that the subject matter as a whole would have been
> obvious at the time the invention was made to a person having ordinary
> skill in the art to which said subject matter pertains. Patentability shall
> not be negatived by the manner in which the invention was made.

6.   **Claims 1-8, 10-17, 19-26, and 28-30** are rejected under 35 U.S.C. 103(a)

as being unpatentable over *Blades* (US Pat No. 5,420,975 A) in view of *White* (US Pat

No. 5,386,494 A) and *Namba* (US Pat No. US 5,884,249 A).

As to independent **claim 1**, *White* discloses: A method of aiding a visual search

in a list of learnable speech commands ("...menu allows the user to learn the different

words or phrases...." col. 9, lines 3-5) comprising: presenting a display list of commands

to a user ("This menu will be displayed to the user " col. 9, lines 20-21). However, *White*

does not show (as clearly as the cited secondary reference) measuring an evidentiary

value related to the monitoring selection of a command; comparing the evidentiary

value to a programmed value to determine if an adjustment criteria has been satisfied;

and adjusting the display of the selected command.

Blades disclose monitoring whether the user has selected a command ("For each

menu, a counter is provided which counts the number of times a user selects the

particular menu." col. 2, lines 58-61); measuring an evidentiary value related to the

selected command ("...a minimum menu counter threshold could be set to 50 indicating

that the menu must be utilized 50 times...," col. 3, lines 23-27); comparing the

measured evidentiary value to a programmed value decreasing a salience of the

command if the measured evidentiary value is less than the programmed value, and

maintaining it if the measured evidentiary value is equal to or greater than the

programmed value ("Thereafter, block 78 illustrates a determination of whether or not

a menu option counter divided by the menu counter is greater than the menu threshold

for the user." col. 4, lines 22-25, *also see* "In this manner, each user selection of a menu

option is utilized in order to continuously and automatically update and alter the display " col. 3, lines 15-20).

It would have been obvious to one of ordinary skill in the art at the time the invention was made, to have combined the list of learnable speech commands taught in *White,* with the evidentiary value based adjusting of *Blades* for several good reasons.

First, the level of ordinary skill in the art at the time of the invention was such that: it was well known that modifying the visual appearance of a command can be accomplished through "visual adjustment" highlighting items in a list of commands to in order to obtain a user's attention (*Blades,* col. 5, lines 65-67). It was further within the level of ordinary skill in the art at the time of the invention to display a list of learnable speech commands for user selection (*White,* col. 10, lines 20-25). Still further, one would have been motivated to use speech commands to improve efficiency of human machine interfaces ("In order to make the human/machine interface even <u>more efficient</u> and <u>user-friendly</u>, computers <u>are being designed</u> to recognize and respond to the user's spoken words." col. 1, lines 60-65)(emphasis added).

Secondly, both *Blades* and *White* are in analogous art as they are directed to the same problem of presenting selectable menu options commands (Blades, col. 1, lines 5-17)(White, col. 10, lines 23-25) as well the same field of endeavor of data processing systems ("data processing system," *Blades,* col. 1, lines 8-11; *See also* "data processing system," *White,* see claim 1).

Finally, *Blades, inter alia,* provides an expressly stated motivation: "It should

therefore be apparent that a need exists for a method and system for automatically

altering a display of user selectable menu options without a direct action by a

user."(*Blades,* col. 1, lines 42-45)(Emphasis added) Congruently, *White* suggests that a

list of learnable speech commands for user selection "...make[s] locating, identifying,

and cataloging alternative commands easier and faster." (col. 2, lines 55-56).

However, the combination of *Baldes et al.* and *White* don't teach measuring and

using an evidentiary value comprising a time elapsed between utterances to alter the

display of items in a list presented to the user. *Namba* (US Pat No. US 5,884,249 A)

teaches using an evidentiary value comprising a time elapsed between utterances:

> In this case, there is an advantage in that even if the **interrupt of the timer** which **counts the elapsed time** [5 seconds in the above-mentioned embodiment] before another pair to be combined is accepted, the recognition result is again returned to the work area 32, so that a semantic analysis unit can be constructed with the pair arriving late. The recognition result within the work area 32 may be operated (or modified) according to the condition of the changed system.

(Col. 16, lines 24-32)(emphasis added). It would have been obvious to one of ordinary

skill in the art, at the time the invention was made, to have used the elapsed time as

taught in *Namba* as the evidentiary value taught by combination of *Baldes et al.* and

White because *Namba* teaches:

> The input time need not be an actual time. However, identification information which can identify the **input timing can be used** as the input time. For example, in the information processing device, **timing information** which is represented with the clock pulses used therein **can be handled as the input time.** The information which gives an indication of the timing (**sequence**) of input information, even the time at

> which any device (or means) accepts the input information, can be used as
> the input time. For example, the input time is the time at which input
> information is input to the input device, or the time at which input
> information is input to the estimating means.

(*Namba* at col. 2, lines 8-20)(Emphasis added). And further, *Namba* suggest using this

timing information in the same way the applicants claim:

> ...estimating an input time of the recognition result using an estimating
> method predetermined for each inputting means; and collecting some of
> the recognition results **whose estimated input times are close to one
> another**, and then managing the collected information as a semantic
> analysis unit.

(*Namba* at col. 2, lines 26-32) (Emphasis added).

As to dependent **claims 2 and 4,** which depends from claim 1, *White, Blades,*

and *Namba* teach the limitations of claim 1, treated above. However, *White* by itself did

not show (as clearly as the secondary and tertiary references) the saliency of the display

being reduced. *Blades* further teaches saliency of the display being reduced ("If the

menu option counter divided by the menu counter is less than the established threshold

for the particular menu, the display of the menu option associated with the menu

option counter is automatically altered...The display may be altered by dimming the

intensity of the display of the menu option, changing the displayed color of the menu

option, or any other manner of alteration." col. 3, lines 1-12) if the adjustment criteria

has been satisfied ("is less than the established threshold for the particular menu, the

display of the menu option associated with the menu option counter is automatically

altered." col. 3, lines 3-6). It would have been obvious to one of ordinary skill in the art

at the time the invention was made, to have combined the list of learnable speech commands taught in *White* with the lightening of a selected command based on adjustment criteria of *Blades* because it is taught to be, "…an improved method for the automatic alteration within a data processing system."(*Blades,* col. 1, lines 48-50).

As to dependent **claim 3**, which depends from claim 1, *White* further teach saliency of the display modified ("In turn, each voice pull-down menu contains a list of alternative commands which corresponds to the subject matter portrayed by the voice icons." col. 7, lines 1-15) by moving the selected command down the display list of commands ("The voice pull down menu is displayed when the voice icon associated with that pull down menu is selected. The alternatives may be arranged alphabetically or logically grouped to help the user find the desired alternative. " col. 7, lines 1-15). Accordingly, this claim is rejected for the same reasons set forth in claim 1.

As to dependent **claim 5**, which depends from claim 1, *White* further disclose(s): saliency of the display being adjusted by moving the selected command up the display list of commands ("thereby shortens the list" col. 9, lines. 5-9; *see* also "contains alternative command" col. 9, lines. 7-12). Accordingly, this claim is rejected for the same reasons set forth in claim 1.

As to dependent **claims 6-7,** which depends from claim 1, *White* further discloses that the saliency of the display are adjusted by darkening or lightening all of the display list of commands except the selected command based on the adjustment criteria (see fig. 5A; see also "white on black background" col. 7, lines 65). Accordingly, this claim is rejected for the same reasons set forth in claim 1.

As to dependent **claim 8**, which depends from claim 1, *White* further discloses that the display list of commands are commands "...to help the user find the desired alternative..."(col. 7, lines 5-15). Accordingly, this claim is rejected for the same reasons set forth in claim 1.

As to dependent **claim 28**, which depends from claim 1, *White* further discloses that the display list of commands is reduced by moving the uttered one of said commands from the display list of commands to an inactive location ("then the computer need not do anything further except remove the recognized command [and any alternative commands] from the display screen," col. 10, lines 9-15) .

As to **claims 10-17, and 29** these claims differ from claims 1-8, and 28 respectively, only in that they are directed to products defined by the processes of claims 1-8, and 28 respectively. Accordingly, claims 10-17 are rejected for the same reasons set forth in the treatment of claims 1-8, and 28 respectively.

As to **claims 19-26, and 30** these claims differ from claims 1-8, and 28 respectively, only in that they are directed to a "system" defined by the processes of claims 1-8, and 28 respectively. Accordingly, claims 19-26 are rejected for the same reasons set forth in the treatment of claims 1-8, and 28 respectively.

RESPONSE TO ARGUMENTS

7.   Applicant arguments, see p. 11–12, filed 5/21/2008, with respect to the Rejection cited by the Examiner in the previous Office Action (dated 2/21/2008), to Claims 1–30 have been fully considered but are not persuasive.

The substance of Applicant's argument is directed against each of the three cited

references, individually. However, it is well established that one cannot show nonobviousness by

attacking references individually where the rejections are based on combinations of references.

See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091,

231 USPQ 375 (Fed. Cir. 1986).

Briefly addressing applicants arguments:

Applicant argues:

> White discloses a method and apparatus for controlling (turning on and
> off) a speech recognition function using a cursor control device. White has
> nothing to do with one of the important concepts of the present invention,
> namely making less commonly-used commands more salient and more
> commonly-used commands less salient.

However, *White* is in analogous art as it is directed to the same problem of

presenting selectable menu options commands (*White*, col. 10, lines 23-25) as well the

same field of endeavor of data processing systems ("data processing system," White, see

claim 1). *White* further discloses:

> Upon moving the cursor positioning device while the computer is receiving
> a signal from the switch or button, the spoken command recognized by the
> computer is displayed on the display screen. In addition, a list of
> alternative commands are displayed on the display screen near the
> recognized spoken command. The list and the recognized command are
> displayed so long as the computer receives a signal from the switch or
> button. This allows the user to check whether the computer correctly
> interpreted the spoken command.

(Col. 3, lines 20-30). Also see:

> If there is an erroneous interpretation, the user can correct it by utilizing
> a voice menu which contains a list of possible alternative commands."

(Col. 3, lines 30-35).

Applicant argues:

> Blades discloses a method and system for the automatic alteration of a
> display of multiple user selectable menu options. In Blades, a counter is
> associated with each user selectable menu option and the counter is
> incremented in response to each selection by a user of the user selectable
> menu option. The display of the user selectable menu option is
> automatically altered in response to a state of the associated counter. In
> contrast to Blades, in which the alteration of the display is based on the
> frequency of the user selectable menu option being selected, in the present
> invention the salience of the commands are changed based upon a length
> of time elapsed from the end of the utterance of the previous code word to
> the beginning of the utterance of the current word.

In response, it should be noted that the prima facie rejection relied on three

references, and the issue Applicant raises, was addressed when it was pointed out that

the "...combination of *Baldes et al.* and *White* don't teach measuring and using an

evidentiary value comprising a time elapsed between utterances to alter the display of

items in a list presented to the user." (E.g. see the rejection of claim 1).

Applicant argues:

> [N]amba does not disclose comparing the measured evidentiary value to a
> programmed value; if the measured evidentiary value is less than the
> programmed value, decreasing a salience of the command; and if the
> measured evidentiary value is equal to or greater than the programmed
> value, maintaining the salience of the command the same or increasing
> the salience of the command, as recited in independent Claims 1,10, and
> 19.

In response, it is stressed that *Namba* teach it would have been obvious to one of ordinary skill in the art at the time the invention was made to use an evidentiary value comprising a time elapsed between utterances. For example:

> The input time need not be an actual time. However, identification information which can identify the **input timing can be used** as the input time. For example, in the information processing device, **timing information** which is represented with the clock pulses used therein **can be handled as the input time**. The information which gives an indication of the timing (**sequence**) of input information, even the time at which any device (or means) accepts the input information, can be used as the input time. For example, the input time is the time at which input information is input to the input device, or the time at which input information is input to the estimating means.

(*Namba* at col. 2, lines 8-20)(Emphasis added). And further, *Namba* suggest using this timing information in the same way the applicants claim:

> ...estimating an input time of the recognition result using an estimating method predetermined for each inputting means; and collecting some of the recognition results **whose estimated input times are close to one another**, and then managing the collected information as a semantic analysis unit.

(*Namba* at col. 2, lines 26-32) (Emphasis added).

CONCLUSION

8.   All prior art made of record in this Office Action or as cited on form PTO-892 notwithstanding being relied upon, is considered pertinent to applicant's disclosure. Therefore, Applicant is required under 37 CFR §1.111(c) to consider these references fully when responding to this Office Action.

9.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of

time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and

any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date

of the advisory action. In no event, however, will the statutory period for reply expire

later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

Examiner should be directed to Samir Termanini at telephone number is (571) 270-

1047. The Examiner can normally be reached from 9 A.M. to 6 P.M., Monday through

Friday.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's

supervisor, Stephen S. Hong can be reached on (571) 272-4124. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

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system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Samir Termanini/   /Stephen S. Hong/
Examiner, Art Unit 2178   Supervisory Patent Examiner, Art Unit 2178